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**IN THE
COURT OF APPEALS OF INDIANA**

IN RE THE MARRIAGE OF
TIMOTHY RINDGE,

Appellant-Respondent,

VS.

JOYCE RINDGE,

Appellee-Petitioner.

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No. 43A04-0608-CV-423

APPEAL FROM THE KOSCIUSKO CIRCUIT COURT
The Honorable Rex L. Reed, Judge
Cause No. 43C01-0506-DR-483

March 22, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

RILEY, Judge

STATEMENT OF THE CASE

Appellant-Respondent, Timothy Rindge (Timothy), appeals the trial court's division of property in the dissolution of Timothy's marriage to Appellee-Petitioner, Joyce Rindge (Joyce).

We affirm.

ISSUE

The sole issue for our review is whether the trial court erred in denying Timothy's Motions for Relief from Order and to Correct Errors.

FACTS AND PROCEDURAL HISTORY

Timothy and Joyce Rindge were married in September 1989. In June 2005, Joyce filed a petition for dissolution of marriage, which was served upon Timothy as required by the Rules of Trial Procedure. Notice of the final hearing on the petition was mailed to Timothy at his home address.

At the May 2006 hearing on the dissolution petition, Joyce testified that Timothy had previously been employed as an electrical engineer for seventeen years. Joyce further explained that Timothy had not worked since 2003 because of his alcohol and drug use. Joyce had been supporting the couple for the past three years and had paid several thousands of dollars for Timothy's unsuccessful drug and alcohol rehabilitation programs.

Joyce submitted to the court a proposed dissolution decree, which set forth Joyce's requested property division. Specifically, Joyce requested the marital residence and the mortgage associated with it as well as the car she drove and the

loan associated with it. She also requested the assets held in her name and offered to pay the debts on the accounts in her name. Lastly, she requested specific items of personal property in the home. She also requested that Timothy receive the two vehicles that he drove, neither of which had a loan associated with it, as well as the assets held in his name. Joyce requested that Timothy pay the debts incurred in his name. She also asked the court to award him specific items of personal property in the home, including furniture, dishes, decorative items, personal items as well as the entire contents of his workshop. Joyce did not testify as to the value of the items. Timothy neither attended the hearing nor submitted a proposed property division. The trial court adopted Joyce's dissolution decree and entered an order dissolving the parties' marriage and distributing their property on May 16, 2006.

One month later, Timothy filed a Motion to Correct Errors wherein he challenged the trial court's distribution of the parties' property. Two weeks later, he filed a Motion for Relief from the May 2006 Order wherein he argued that he did not receive notice of the final hearing because Joyce hid it from him. At a hearing on his motions, Timothy submitted into evidence his proposed valuation of the parties' property. Based upon his valuation, he argued that Joyce received approximately 90% of the marital estate and he received only 10%. He further argued that the trial court failed to justify this unequal distribution.

Following the hearing, the trial court found that Timothy received notice of the hearing but failed to open the envelope that was addressed to him. The court

also found that it had properly divided the parties' property. The court denied Timothy's motions in a July 5, 2006, order. Timothy appeals.

DISCUSSION AND DECISION

I. *Standard of Review*

We apply a strict standard of review to a court's division of marital property in a dissolution action. Smith v. Smith, 854 N.E.2d 1, 5 (Ind. Ct. App. 2006). The division of marital assets is a matter within the sound discretion of the trial court. Id. The party challenging the trial court's property division bears the burden of proof. Id. The presumption that the court correctly followed the law and made all the proper considerations when dividing the property is one of the strongest presumptions applicable to our considerations on appeal. Id. at 6. Thus, we will reverse a property distribution only if there is no rational basis for the award. Id.

Generally, there is a presumption that an equal distribution of marital property is just and reasonable. See Ind. Code § 31-15-7-5. However, there are factors in Indiana Code § 31-15-7-5 that can serve to rebut the presumption of equally dividing the marital estate. Id.

II. *Analysis*

Timothy argues the trial court should have granted his motions because it erred in dividing the marital estate. Specifically, he first contends that because Joyce did not present evidence regarding the value of the marital assets, it was impossible for the trial court to make an equal or a just and reasonable division of

the parties' assets. However, this court has previously stated that where the parties fail to present evidence as to the value of their assets, it will be presumed that the trial court's decision is proper. Balicki v. Balicki, 837 N.E.2d 532, 539 (Ind. Ct. App. 2005), trans. denied (quoting Quillen v. Quillen, 671 N.E.2d 98, 103 (Ind. 1996)). Timothy's argument therefore fails.

Timothy further argues that based upon the valuations he introduced at the hearing on his motions, Joyce received 90% of the marital estate and he only received 10%. He complains that the trial court did not set forth the statutory factors that it used to rebut the presumption of equally dividing the marital estate. However, this court has previously found that a party who fails to introduce evidence as to the specific value of the marital property at the dissolution hearing is estopped from appealing the distribution on the ground of trial court abuse of discretion based on that absence of evidence. In re Marriage of Church, 424 N.E.2d 1078, 1081 (Ind. Ct. App. 1981). This comports with the general rule that parties to a legal proceeding are bound by the evidence they introduce at trial and are not allowed a second chance if they fail to introduce crucial evidence. Id. at 1082.

Here, Timothy did not introduce evidence at the hearing because he did not attend it. He does not challenge the trial court's conclusion that he received notice of the hearing. He is not allowed a second chance to offer evidence. Timothy is estopped from appealing the distribution.

CONCLUSION

Based upon the foregoing, we find that the trial court did not err in denying Timothy's motions.

Affirmed.

KIRSCH, J., and FRIEDLANDER, J., concur.